

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Antonio Wheeler,

Plaintiff

v.

The Whiting-Turner Contracting Company,
et al.,

Defendants

Case No. 2:24-cv-00642-CDS-MDC

Order Adopting Magistrate Judge's Report
and Recommendation and Closing Case

[ECF No. 5]

On May 28, 2024, Magistrate Judge Maximiliano D. Couvillier, III, denied pro se plaintiff Antonio Wheeler's *in forma pauperis* ("IFP") application and ordered Wheeler to either pay the filing fee or file a new IFP application. Order, ECF No. 4. In that order, Judge Couvillier noted that Wheeler is a frequent filer in this Court and cautioned him that his behavior is bordering on vexatious.¹ *Id.* at 1. Wheeler had until June 11, 2024, to comply with that order. *Id.* at 3. Wheeler failed to do so.

As a result, on August 2, 2024, Judge Couvillier issued a report and recommendation (R&R) that this case should be dismissed. R&R, ECF No. 5. Wheeler had until August 16, 2024, to file to file any objections to the R&R. LR IB 3-2(a) (stating that parties wishing to object to an R&R must file objections within fourteen). *See also* 28 U.S.C. § 636(b)(1)(C) (same). As of the date of this order, Wheeler has neither objected to the R&R nor requested more time to do so. And "no review is required of a magistrate judge's report and recommendation unless objections are filed." *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219, 1226 (D. Ariz. 2003). *See also Thomas v. Arn*, 474 U.S. 140, 150 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). Therefore, I adopt the R&R in full and dismiss this action without prejudice.

¹ The Ninth Circuit has defined vexatious litigation as "without reasonable or probable cause or excuse, harassing, or annoying." *Microsoft Corp. v. Motorola, Inc.*, 696 F.3d 872, 886 (9th Cir. 2012) (quoting Black's Law Dictionary 1701 (9th ed. 2009))

Conclusion

Therefore, Judge Couvillier's R&R [ECF No. 5] is adopted in its entirety, so this action is now dismissed without prejudice.

The Clerk of Court is kindly instructed to enter judgment accordingly and to close this case.

Dated: September 9, 2024



Cristina D. Silva
United States District Judge